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CHARLOTTE, N. C.

NOV 15 2006

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION U. S. DISTRICT COURT
W. DIST. OF N. C.

CIVIL NO. 5:06CV8-V

UNITED STATES OF AMERICA)
)
vs.)
)
REAL PROPERTY LOCATED AT 1482 OLD)
NORTH ROAD, LENOIR, NORTH CAROLINA)

CONSENT JUDGMENT

FILED
ASHEVILLE, N.C.
NOV 17 2006
DISTRICT COURT
W. DIST. OF N.C.

WHEREAS, the United States filed a verified complaint on January 18, 2006, for the forfeiture of the defendant property, and this Court found probable cause for such forfeiture and issued a warrant for arrest in rem; and,

WHEREAS, on or about February 22, 2006, the Marshals Service duly executed the warrant for arrest in rem with regard to the defendant property, as shown by the Form USM-285 returned herein on that date, thus establishing the in rem jurisdiction of this Court as to the defendant property; and,

WHEREAS, on or about April 27, 2006, and June 29, 2006, Bertha Fox (Vaught) Tugman ("claimant"), by and through another person acting on her behalf, filed documents ("claimant's pleadings") asserting an ownership interest in the defendant property; and,

WHEREAS, for purposes of this consent judgment only, the parties agree that claimant's pleadings shall be deemed to constitute a verified claim (or statement of interest) and an answer under 18 U.S.C. §983(a)(4) and Rule C(6)(A) and (to the extent applicable) Rule G(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims, as filed by claimant on her own behalf, but not on behalf of any other person, after the deadlines provided by the statute and the applicable rule; and,

WHEREAS, claimant stipulates that there is probable cause for forfeiture of the defendant property and that the United States District Court for the Western District of North Carolina has in rem jurisdiction over the defendant property; and,

WHEREAS, the parties have agreed as follows: (1) claimant's claim and answer herein shall be dismissed with prejudice; and (2) each party shall bear its own costs, including attorneys fees; and,

WHEREAS, the parties consent to the United States Magistrate Judge conducting all proceedings, including entry of this Consent Judgment, pursuant to 28 U.S.C. §636(c);

THE COURT FINDS THAT:

1. A verified complaint for forfeiture in rem of the defendant property was filed on January 18, 2006. This Court found probable cause for forfeiture and issued a warrant for arrest in rem.
2. Process was fully issued in this action and returned according to law.
3. The parties have agreed to dismissal of claimant's pleadings, as provided above.
4. The actions taken by the United States were reasonable and proper.

Based on the foregoing findings, IT IS ORDERED, ADJUDGED, AND DECREED that:

1. Claimant's pleadings are deemed, for purposes of this consent judgment, to constitute a verified claim (or statement of interest) and an answer under 18 U.S.C. §983(a)(4) and Rule C(6)(A) and (to the extent applicable) Rule G(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims, and they are hereby dismissed with prejudice;
2. Each party is to bear its own costs of this action, including attorneys fees.

Signed this the 17 day of November, 2006.

Deanna Howell
UNITED STATES Magistrate JUDGE

ON MOTION OF AND WITH CONSENT OF THE PARTIES:

FOR THE UNITED STATES OF AMERICA:

GRETCHEN C. F. SHAPPERT
United States Attorney

By W. A. Brafford
WILLIAM A. BRAFFORD
Assistant United States Attorney

Date: Nov. 6, 2006

Bertha Fox Vaught Tugman Date: 11-2-06
BERTHA FOX (VAUGHT) TUGMAN

Sam Winthrop
SAM WINTHROP
Attorney for Bertha Fox (Vaught) Tugman

Date: 11-2-06